

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

KATHLEEN HEAROD,	:	Case No. 1:17-cv-175
Plaintiff,	:	
	:	Judge Timothy S. Black
vs.	:	
	:	
FIFTH THIRD BANK,	:	
Defendant.	:	

**ORDER GRANTING
PLAINTIFF’S MOTION FOR EXTENSION OF TIME**

This case is before the Court on Plaintiff’s *pro se* motion for an extension of time to file a notice of appeal. (Doc. 86).

On March 31, 2022, this Court entered an Order adopting the Report and Recommendations of the United States Magistrate Judge (Doc. 75), granting Defendant’s motion for summary judgment (Doc. 61), and terminating this civil case. (Doc. 84). The Clerk’s Judgment issued that same day. (Doc. 85). Pursuant to Fed. R. App. P. 4(a)(1)(A), a “notice of appeal must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.” Accordingly, any party intending to appeal the Court’s March 31, 2022 Order and Judgment was required to file a notice of appeal no later than Monday, May 2, 2022 (as the 30th day—April 30, 2022—fell on a Saturday).

On May 23, 2022, *i.e.*, 21-days after the notice of appeal deadline, Plaintiff moved for an extension of time to appeal, explaining that, since February 2021, she has suffered from Traumatic Brain Injury, and that her medical condition precludes her from

“complet[ing] tasks at maximum efficiency and within certain time frames.” (Doc. 86).

Accordingly, Plaintiff moves for an extension of time to appeal, pursuant to Fed. R. App. P. 4(a)(5). (*Id.*)

“The district court may extend the time to file a notice of appeal if ... a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires,” so long as the extension does not exceed 14 days from the date the Court grants any such extension. Fed. R. App. P. 4(a)(5)(A), (C).¹

Here, the Court notes that Plaintiff has a history of dilatory filing practices and repeated requests for extensions of time, which history pre-dates Plaintiff’s cited medical condition. The Court further notes that, in its Order adopting the Report and Recommendation, the Court certified that an appeal of its Order would not be taken in good faith (though such finding does not preclude Plaintiff from appealing). (Doc. 84). Finally, it bears noting that the notice of appeal is a fairly brief document, requiring only identification of the parties, designation of the judgment from which appeal is taken, and the name of the court to which the appeal is taken. Fed. R. App. P. 3(c).²

Nevertheless, in the interest of accommodating *pro se* Plaintiff, the Court hereby **GRANTS** Plaintiff’s motion for an extension of time to file a notice of appeal. (Doc.

¹ In support of her requested extension of time, Plaintiff also filed a motion seeking leave to file her medical documentation under seal. (Doc. 87). However, because Plaintiff’s motion for an extension of time was filed less than 30 days after the notice of appeal deadline expired, no further showing of “excusable neglect or good cause” is necessary. *See* Fed. R. App. P. 4(a)(5)(A). Accordingly, the Court **DENIES as moot** Plaintiff’s motion to submit supporting medical documentation under seal. (Doc. 87).

² A single-page, fillable notice of appeal form can be found on the Court’s website: <https://www.ohsd.uscourts.gov/ohio-southern-district-forms>

86). Specifically, Plaintiff may file a notice of appeal, **no later than 14 days from the date of this Order.**³

IT IS SO ORDERED.

Date: 7/25/2022

s/Timothy S. Black
Timothy S. Black
United States District Judge

³ The Court's decision to grant Plaintiff an extension of time has no impact on the Court's prior denial of leave to appeal *in forma pauperis*. (Doc. 84 at 11). Thus, the Court maintains its prior 28 U.S.C. § 1915(a)(3) certification. (*Id.*)